

# Notice of Allowability

Application No.

10/029,516

Examiner

Trenton J. Roche

Applicant(s)

ULERY ET AL.

Art Unit

2193

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed 28 February 2005 and 1 July 2005.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☒ The drawings filed on 20 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

Art Unit: 2193

### **DETAILED ACTION**

1. This Office Action is responsive to communications filed 28 February 2005 and 1 July 2005.
2. Per applicant's request, newly added claims 11-19, as presented in the reply filed 28 February 2005, have been entered. Amended claims 8 and 18, as presented in the reply filed 1 July 2005, have been entered. Claims 1-19 are now pending.
3. Claims 1-19 have been examined.

### ***Response to Arguments***

4. Applicant's arguments, see pages 6-10 of the Remarks, filed 28 February 2005, with respect to the rejection of claims 1-3 and 5-8 under 35 U.S.C. § 102(b) and the rejection of claims 4, 9 and 10 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. The rejections of claims 1-10 have been withdrawn.

### **EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Christopher J. Rourk (Reg. No. 39,348) on 14 October 2005.

Art Unit: 2193

The application has been amended as follows:

Claim 7 has been amended as such:

7. (Currently Amended) The method according to claim 1 further comprising the step of:  
identifying a plurality of ~~natural~~ application boundaries in the source code, wherein each application boundary identifies a transition point between two program objects in the source code; and  
wherein the step of placing a first plurality of directives further comprises placing the first plurality of directives in the source code at the ~~natural~~ application boundaries.

These changes were required to further clarify the claim and obviate any rejection under 35 U.S.C. 112 2<sup>nd</sup>.

***Allowable Subject Matter & Examiner's Statement of Reason(s) for Allowance***

3. Claims 1-19 are allowed.
4. The following is an examiner's statement of reasons for allowance:

The closest found prior art of record, U.S. Patent 5,752,038 to Blake et al. (hereafter "Blake"), taken alone or in combination, fails to teach or reasonably suggest a method for executing a computer program in accordance with independent claim 1. Specifically, Blake does not teach at least *placing a first plurality of directives in the source code to divide the computer program into the program objects, whereby an annotated computer program is produced; processing the annotated computer program to generate a*

Art Unit: 2193

*description for each of the program objects; allocating the program objects to fixed locations in the memory of the target computer platform; porting the annotated computer program to the target computer program; generating an executable image of the annotated computer program, wherein the executable image is configured for execution on the target computer platform; and executing the executable image on the target computer program (claim 1). Similar limitations are recited in independent claims 9 and 11.*

Instead, Blake is directed to a method and system for determining an optimal placement order for code portions within modules based on concurrency of usage of the code portions. The compiler of Blake will annotate source code with library routines for purposes of gathering execution data. The instrumented executable is executed and code portions are then re-ordered based upon execution statistics. However, Blake does not specifically recite the ability to allocate program objects or code portions to fixed locations in memory; the code portions are simply ordered in an optimal manner. Furthermore, Blake discloses a process of annotation that occurs during compilation, while the instant application discloses annotating prior to compilation of the source code, as noted on pages 6 and 7 of the Applicants' Remarks.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2193

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trenton J. Roche whose telephone number is (571) 272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trenton J Roche  
Examiner  
Art Unit 2193

TJR



**KAKALI CHAKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**